

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

NGUYEN DAOTIEN,

Petitioner,

vs.

BILL LOCKYER,

Respondent.

Case No. 2:03-cv-1252-RRB

**ORDER ADOPTING AMENDED
FINDINGS AND RECOMMENDATIONS**

Petitioner Nguyen Daotien ("Petitioner"), a state prisoner proceeding pro se, filed the above-entitled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his July 2000 conviction for assault with a deadly weapon and by means of force likely to produce great bodily injury and reckless driving and sentence of three years probation. The matter was referred to a United States Magistrate Judge pursuant to the Local Rules of the Eastern District of California.

On September 7, 2006, Magistrate Judge Kimberly J. Mueller filed Findings and Recommendations (Docket 30) herein, which were served on all parties and which contained notice to all parties that any objections to the Findings and Recommendations

were to be filed within ten days. Petitioner did not file objections within the allotted ten-day period. On December 18, 2006, Petitioner filed a Petition to Set Aside Findings and Recommendations (Docket 33) and allow him to obtain counsel.

On January 26, 2007, the Magistrate Judge vacated the Findings and Recommendations and denied as moot Petitioner's Petition to Set Aside the Findings and Recommendations (Docket 35). On January 30, 2007, the Magistrate Judge filed Amended Findings and Recommendations (Docket 36), which were served on all parties and which contained notice to all parties that any objections to the Amended Findings and Recommendations were to be filed within 10 days. On February 16, 2007, Petitioner received a 30-day extension of time to file objections but did not file objections within those 30 days. Subsequently, Plaintiff requested additional extensions of time, but these requests were denied.

Inasmuch as the Court concludes the issues before it are based in law, i.e., legal disputes, and in accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, the Court has considered the relevant pleadings filed in this matter, and, noting no objections, finds the Magistrate's Amended Findings and Recommendations (Docket 28) to be supported by the record and by proper analysis.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Amended Findings and Recommendations (Docket 36) filed on January 30, 2007, are adopted in full;

2. Petitioner's petition for writ of habeas corpus is dismissed with prejudice.

ENTERED this 16th day of August, 2007.

S/RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE